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Message Text

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63
ACTION EB-07

INFO OCT-01 ARA-06 EA-07 ISO-00 CAB-02 CIAE-00 COME-00

DODE-00 DOTE-00 INR-07 NSAE-00 FAA-00 L-03 PA-01

PRS-01 /035 W
---------- 126020
R 091634Z FEB 76
FM AMEMBASSY LIMA
TO SECSTATE WASHDC 8737
INFO AMCONSUL MELBOURNE

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MELBOURNE FOR STYLES, CIVAIR DEL

DEPT FOR EB/OA/AN - ALEX RIMAS

EO 11652: NA
TAGS: EAIR, PE
SUBJ: CIVAIR: DGTA REPLY TO STYLES LETTER

REF: LIMA 1173

1. SUMMARY: EMBASSY HAS JUST RECEIVED DGTA REPLY TO STYLES LETTER DELIVERED JANUARY 20. LETTER REVEALS SEVERAL POINTS OF DIFFERENCE WITH USG APPROACH AND HIGHLIGHTS MISUNDERSTANDINGS. THIS CABLE CONTAINS INFORMAL TRANSLATION OF LETTER. WE HOPE U.S.-PERU MEETINGS SUGGESTED LIMA 1125 WILL SERVE TO CLARIFY ISSUES. END SUMMAY.

2. EMBASSY ON AFTERNOON FEBRUARY 6 RECEIVED LETTER (INFORMAL TRANSLATION BEGINS PARA 3 BELOW) FROM COL. OLIVERA, DGTA, IN REPLY TO STYLES LETTER AND PROPOSED NOTE DELIVERED TO HIM ON JANUARY 20. LETTER TAKES TACK COMPLETELY DIFFERENT FROM STYLES APPROACH, AND IS NOT CONCILIATORY IN TONE.

3. UNOFFICIAL EMBASSY TRANSLATION OF LETTER:
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QUOTE
DEAR MR. STYLES:
I MAKE REFERENCE TO YOUR LETTER RECEIVED LAST JANUARY 20, IN WHICH YOU PROPOSE SOME PRACTICAL MODIFICATIONS TO THE UNDERSTANDING IN EFFECT BETWEEN OUR TWO COUNTRIES SINCE LAST JULY.

ALTHOUGH CLAUSE 7 OF THIS UNDERSTANDING ALLOWS THE PARTIES TO TERMINATE IT WITH THIRTY DAYS ADVANCE NOTICE AFTER IT HAS BEEN IN FORCE FOR TWO YEARS ACCORDING TO THE SPECIFIC PROCEDURE DESCRIBED THEREIN, I SEE NO OBJECTION IN DISCUSSING A NEW UNDERSTANDING IMPROVING ON THE PREVIOUS ONE IN FORCE, AS LONG AS THE NEW UNDERSTANDING IS BOTH PRACTICAL AND REFLECTS A HEALTHY BALANCE BETWEEN THE OPERATIONS CARRIED OUT BY OUR TWO DESIGNEATED AIRLINES.

AS FOR YOUR CONCERN FOR MEXICO, AN INTERMEDIATE POINT TO LOS ANGELES, THIS HAS NOT PRESENTED, NOR DOES IT PRESENT, ANY PROBLEM FOR THE INTEREST OF THE UNITED STATES SINCE THE AEROPERU AIRCRAFT LEAVING MEXICO HAS ABSOLUTELY NO TRAFFIC RIGHTS TO LOS ANGELES AND RETURNS TO THAT POINT UNDER THE SAME CONDITIONS. IT DOES NOT CARRY TRAFFIC, THEREFORE, BETWEEN THOSE TWO COUNTRIES. MOREOVER, IT STOPS IN MEXICO THE SAME NUMBER OF TIMES AS IN LOS ANGELES, AS PROVIDED IN THE UNDERSTANDING.

THE NON-TRAFFIC STOP IN MEXICO IS PROVIDED FOR IN POINT 1 OF THE UNDERSTANDING AND IN PARAGRAPH 1 OF THE AMENDMENT TO THE ANNEX OF THE AIR TRANSPORT AGREEMENT, WHICH WAS ONLY MODIFIED IN RELATION TO AEROPERU'S RIGHT TO EMBARK PASSENGERS, CARGO AND MAIL IN LOS ANGELES BOUND FOR MEXICO AND VICE VERSA.

IN CONNECTION WITH YOUR PROPOSAL TO AUTHORIZE AEROPERU TO OPERATE TWO WEEKLY ALL-CARGO FLIGHTS BETWEEN LIMA AND MIAMI, I BELIEVE THAT THIS ALSO WOULD BE MISINTERPRETING THE UNDERSTANDING AND THE AIR TRANSPORT AGREEMENT, SINCE THE FORMER REGULATES AEROPERU'S CONTINUED TRAFFIC FLIGHTS, WHILE THE LATTER REGULATES ITS CARGO TRAFFIC SEPARATELY, WHICH YOUR PROPOSAL WOULD INTEND TO
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LIMIT ALSO TO TWO FLIGHTS.

ASIDE FROM THE CONTRACTUAL CONSIDERATION WHICH SUPPORTS OUR POSITION, SUCH A LOW LEVEL OF FREQUENCIES AUTHORIZED ONLY TO MIAMI WOULD BE DETRIMENTAL TO AEROPERU'S INTEREST AND WOULD DISREGARD ITS RIGHTS UNDER THE AFOREMENTIONED 1946 AIR TRANSPORT AGREEMENT, AS AMENDED IN 1966.

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FINALLY, WITH REFERENCE TO YOUR PROPOSAL TO PERMIT BRANIFF TO OPERATE A THIRD FREQUENCY TO BRAZIL AND A FIFTH TO BUENOS AIRES AS OF FEBRUARY 1, 1976, NOT TIED TO AERO-PERU'S SERIVES TO NEW YORK, I REALLY DO NOT KNOW ON WHAT GROUNDS IT MIGHT BE BASED.

AS FOR YOUR DECISION TO DELAY THE NEW PERMIT TO AERO-PERU BECAUSE, AS YOU SAY, "IT WOULD IMMEDIATELY GIVE RISE TO THE QUESTION OF AEROPERU'S STOP IN MEXICO", AND YOR STATEMENT THAT "WE CERTAINLY HAVE NO INTENTION OF DELAYING AEROPERU'S SERVICES TO NEW YORK", THESE ARE BAFFLING FOR THE INCONSISTENCY OF SUCH POSITIONS WITH THE UNDERSTANDING SIGNED IN JULY AND WITH THE 1946 AIR TRANSPORT AGREEMENT, AS AMENDED, AND THE OFFICIAL COMMIT-MENT TO GRANT TO AEROIERU ITS OPERATIONS PERMIT "GRANTING THE RIR TS SET FORTH IN THE UNDERSTANDING AS SOON AS P S-
SIBLE AND AT THE LATEST DY#NIDJAKSEIENDER, JQOUTZ CONTAINED IN ANNEX JE OF THE SAID UNDERSTANDING.

I HAD TO DELAY MY REPLY TO YOUR LETTER, MR. STYLES, BECAUSE THE DIPLOMATIC REPRESENTATIVE OF YOUR EMBASSY IN PERU, DR. RUEDA, KINDLY OFFERED TO CONSULT WITH YOU REGARDING A SMALL CLARIFICATION OF YOUR TEXT, WHICH WAS FOUND OBSCURE. I ASSUME THAT, IN ANY CASE, A POSSIBLE MISINTERPRETATION COULD BE CLARIFIED AT ANY TIME. SINCERELY, CESAR OLIVERA FERNANDEZ, FAP COLONEL, DIRECTOR GENERAL OF AIR TRANSPORT. END QUOTE

4. COMMENT: LETTER SHOWS EXTENT OF BASIC DIFFERENCES AND HIGHLIGHTS DIFFERING INTERPRETATINS JULY UNDERSTANDING. WE HOPE U.S.-PERU DISCUSSIONS RECOMMENDED LIMA 1125 CAN CLARIFY MISUNDERSTANDINGS AND SETTLE OUTSTANDING DIFFERENCES.
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DEAN

NOTE: # AS RECEIVED.

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To: STATE
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